

Question

How does the Privacy Act of 1974 apply to federal, state and local government?

Answer

Except in certain situations, federal, state and local government cannot deny an individual “any right, benefit, or privilege provided by law because of an individual’s refusal to disclose his social security account number.” This refusal does not apply in two scenarios. The first is where a federal law mandates disclosure of the SSN. The second is where a federal, state or local agency “maintains a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.”

If federal, state or local government requests an individual to disclose his or her SSN, they must “inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.”

What should agencies/bureaus/departments/divisions do within WV state government?

- Assess the collection of the SSN and tie it to a right, benefit or privilege, where they are mandated by federal law to do so and where they have a system of records, required by statute or regulation, in existence before January 1, 1975.
- If they cannot collect the SSN under the Privacy Act, they must assess their business operations and implement an alternative method of identifying individuals.
- If they can continue to collect the SSN under the Privacy Act, they must provide notice consistent with this law.
- If they collect the SSN legally, they must not use it for any secondary purpose that does not meet the Privacy Act requirements and is not defined in the Notice.
- Adopt policies and procedures regarding SSN collection and use, and display of the Privacy Act notice.